

Application No. 10/056,845  
Amendment dated April 8, 2005  
Reply to Office Action dated February 9, 2005

### **REMARKS/ARGUMENTS**

The Office Action dated February 9, 2005, has been reviewed in detail and the claims have been amended in the sincere effort to place the same in condition for allowance, or in better condition for consideration on appeal.

Applicant retains the right to pursue broader claims via a continuing application under 35 U.S.C. § 120.

#### **Amendment to the Title:**

The title has been amended herein to more accurately reflect what is now the claimed invention in light of the earlier Restriction Requirement imposed by the Examiner.

#### **Rejection Under 35 U.S.C. § 102:**

In paragraph 3 of the outstanding office action the Examiner stated, in part:

“Claims 1-11 are rejected under 35 U.S.C. 102 (e) as being anticipated by Bogdan et al, “hereinafter Bogdan”, (US Pat. 6,495,487 B1).

Bogdan discloses a catalytic composite consisting essentially of a combination of a refractory inorganic support with from about 0.1 to 10 mass-% on an elemental basis of a halogen component, about 0.01 to 2 mass-% on an elemental basis of a platinum component, about 0.01 to 5 mass-% on an elemental basis of a Group IVA (IUPAC 14) metal component selected from the group consisting of tin and germanium, about 0.1 to 5 mass-% on an elemental basis of an indium component and about 0.05 to 5 mass-% on an elemental basis of a lanthanide-series metal component selected from the group consisting of cerium and lanthanum (see col. 16, claim 1). Bogdan further discloses that the catalyst may also contain other components or mixtures thereof which act alone or in concert as catalyst modifiers to improve activity, selectivity or stability. Suitable and known catalyst modifiers including rhenium, cobalt, nickel, iron, tungsten, molybdenum, chromium, bismuth, antimony, zinc, cadmium, and copper. See col. 9, ln 66- col. 10, ln 4. Suitable refractory inorganic oxides including zirconia (see col. 4, ln 17).

Bogdan discloses the claimed catalyst, thus anticipates the claims.

The claimed metal contents are met by the reference (see col. 16, claim 1).”

In response thereto, the Applicants respectfully submit that the Bogdan reference does

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not anticipate the instant invention.

A rejection under 35 U.S.C. §102 must disclose the identical invention and contain every element recited in the claim in as complete detail as is contained in the claim and arranged as recited in the claim. MPEP §2131 provides:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegall Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the . . . claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

The Applicants respectfully argue that the Bogdan reference does not disclose the identical invention, in as complete detail as is contained in Claim 1. Nor does the Bogdan reference disclose every element as set forth in the claim.

The Applicants respectfully reassert the arguments made in great detail in Applicants' prior Amendment dated October 15, 2004 that, contrary to the instant invention, the Bogdan reference teaches the inclusion of a halogen component in the Bogdan catalyst. Amended Claim 1 now specifically recites "said catalyst does not comprise any halogen components." Support for this amendment can be found in the original specification and claims which clearly disclose the potential compositions of the instant catalyst, and none of which make reference to the inclusion of a halogen component.

The Applicant respectfully submits that because the Bogdan reference discloses a catalyst containing more elements than those recited in claim 1 (e.g., a halogen component is expressly described and included in the composition of the Bogdan catalyst), it therefore does not disclose the "identical invention" as recited in Claim 1 and thus does not anticipate the present invention.

Additionally, it is respectfully submitted that the Bogdan reference does not set forth every recited element, namely, the Bogdan reference does not set forth "said catalyst does not comprise any halogen components," as is recited in amended Claim 1.

It is respectfully contended that because the Bogdan reference does not disclose every

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element as recited in Claim 1, nor does it disclose the identical invention as recited in Claim 1, therefore the Bogdan reference does not anticipate the present invention.

Additionally, it is noted that the Examiner, in paragraph 4 of the instant Office Action, additionally stated:

“Applicants urged, that the claims as now amended are claiming a catalyst which does not comprise a halogen component. This is noted, however, not found persuasive because: (1) applicants did not provide reasoning as to why applicants excluded the halogen component from the instantly claimed catalyst. (2) it appears that the instant claim 1 does not exclude the "halogen component" disclosed by the Bogdan reference due to the opening phrase "comprising" in line 1.”

In response to these comments by the Examiner, the Applicants respectfully state that they are not certain they correctly understand the Examiner's reasoning. As to point (1), if the Examiner is asking the reason why a halogen component was not included in the instantly claimed catalyst, it is submitted that halogen compounds are intentionally avoided due to their deleterious impact on catalyst performance. As to point (2), the Applicants respectfully submit that the opening phrase “comprising” does not override the specific exclusionary language that was previously added to Claim 1, namely “wherein the catalyst does not comprise a halogen component.”

Nevertheless, in an attempt to make this exclusionary language even clearer, the Applicants have amended this element in Claim 1 to now recite “said catalyst does not comprise any halogen components.” Applicants believe this change in wording should now even more clearly exclude the "halogen component" disclosed by the Bogdan reference. This amendment to Claim 1 was not presented earlier because the Applicants respectfully submit that the prior claim language “wherein the catalyst does not comprise” should have reasonably been interpreted as exclusionary language. Nevertheless, the Applicants are willing to amend Claim 1 herein in response to the Examiner's rejection in an attempt to place the claim in condition for allowance, or at least in a more favorable condition for appeal.

Therefore, based on the above, independent Claim 1 is believed to fully distinguish from the Bogdan reference, and therefore is believed to be in condition for allowance. Since claims 2-11 all depend from independent Claim 1, they too are believed to be in condition for allowance

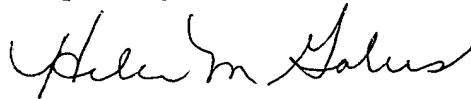
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by virtue of this dependency. Therefore, in light of the above, reconsideration and withdrawal of the present rejection is respectfully requested.

**CONCLUSION**

It is submitted that the Applicants have submitted new and unique Stabilized Tin-Oxide-Based Oxidation/Reduction Catalysts. In view of the above, it is submitted that Claims 1-11 are in condition for allowance. Therefore, it is requested that a Notice of Allowance be issued at an early date.

Respectfully submitted,



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